

12:44 pm, Sep 05, 2017

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GUSTAVIA HOME, LLC,

Plaintiff,

-against-

MARIANO VILLATORO; SECURITY CREDIT SERVICES, LLC;
and JOHN DOE "1" through "12", said persons or parties having or
claimed to have a right, title or interest in the Mortgaged premises
herein, their respective names are presently unknown to the
Plaintiff,

Defendants.

Order
16-cv-2106 (ADS)(ARL)

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APPEARANCES:

The Margolin and Weinreb Law Group, LLP

Attorneys for the Plaintiff

165 Eileen Way, Suite 101

Syosset, NY 11791

By: Alan H. Weinreb, Esq., Of Counsel

NO APPEARANCES:

Mariano Villatoro

Defendant

Security Credit Services, LLC

Defendant

SPATT, District Judge:

On April 28, 2016, the Plaintiff Gustavia Home, LLC commenced this diversity mortgage foreclosure action under Article 13 of the New York Real Property Actions and Proceedings Law, seeking to foreclose its security interest in a parcel of real property owned by the Defendant Mariano Villatoro, located at 157 Cornell Street in Hempstead, New York (the "Premises").

In addition to Villatoro, the complaint named as a Defendant Security Credit Services, LLC, as well as twelve "John Doe" Defendants, whose identities are unknown to the Plaintiff, but who are believed to be individuals and entities with a potential interest in the property. By this

action, the Plaintiff seeks a declaratory judgment establishing these parties' respective rights and obligations in and to the Premises.

On August 10, 2016, after failing to answer or otherwise appear in this action, the Clerk of the Court noted the Defendants' defaults.

On January 4, 2017, the Plaintiff moved for a default judgment, which motion the Court referred to United States Magistrate Judge Arlene R. Lindsay for a recommendation on the issues of liability and damages.

On August 17, 2017, Judge Lindsay issued a Report and Recommendation (the "R&R"), recommending that the Plaintiff's motion for a default judgment be granted in its entirety. Further, Judge Lindsay recommended that a judgment of foreclosure and sale reflecting the amounts validly due and owing under the note secured by the subject mortgage, namely, \$73,642.03 in principal plus \$66,842.68 in interest, be entered in favor of the Plaintiff.

On the same date that the R&R was issued, namely, August 17, 2017, the Plaintiff filed proof of service on the Defendants. More than fourteen days have elapsed, and none of the Defendants has filed an objection to the R&R or otherwise appeared in this action

Therefore, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result.

Accordingly, the August 17, 2017 Report and Recommendation is adopted in its entirety, and the Plaintiff's motion for a default judgment is granted. The Plaintiff is directed to submit a proposed judgment of foreclosure and sale consistent with this Order on or before September 12, 2017.

It is **SO ORDERED**:

Dated: Central Islip, New York
September 5, 2017

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge